

OFFICIAL REPORT OF PROCEEDINGS**Wednesday, 24th May 1972****The Council met at half-past Two o'clock**

[Mr PRESIDENT in the Chair]

PRESENT

HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)
SIR CRAWFORD MURRAY MACLEHOSE, KCMG, MBE
THE HONOURABLE THE COLONIAL SECRETARY
SIR HUGH SELBY NORMAN-WALKER, KCMG, OBE, JP
THE HONOURABLE THE ATTORNEY GENERAL
MR DENYS TUDOR EMIL ROBERTS, CBE, QC, JP
THE HONOURABLE THE SECRETARY FOR HOME AFFAIRS
MR DONALD COLLIN CUMYN LUDDINGTON, JP
THE HONOURABLE THE FINANCIAL SECRETARY
MR CHARLES PHILIP HADDON-CAVE, JP
THE HONOURABLE DAVID RICHARD WATSON ALEXANDER, CBE, JP
DIRECTOR OF URBAN SERVICES
THE HONOURABLE JAMES JEAVONS ROBSON, JP
DIRECTOR OF PUBLIC WORKS
THE HONOURABLE JOHN CANNING, JP
DIRECTOR OF EDUCATION
DR THE HONOURABLE GERALD HUGH CHOA, JP
DIRECTOR OF MEDICAL AND HEALTH SERVICES
THE HONOURABLE JACK CATER, MBE, JP
DIRECTOR OF COMMERCE AND INDUSTRY
THE HONOURABLE DENIS CAMPBELL BRAY, JP
DISTRICT COMMISSIONER, NEW TERRITORIES
THE HONOURABLE PAUL TSUI KA-CHEUNG, OBE, JP
COMMISSIONER OF LABOUR
THE HONOURABLE IAN MACDONALD LIGHTBODY, JP
COMMISSIONER FOR RESETTLEMENT
THE HONOURABLE SIR YUET-KEUNG KAN, CBE, JP
THE HONOURABLE WOO PAK-CHUEN, OBE, JP
THE HONOURABLE SZETO WAI, OBE, JP
THE HONOURABLE WILFRED WONG SIEN-BING, OBE, JP
THE HONOURABLE WILSON WANG TZE-SAM, OBE, JP
THE HONOURABLE HERBERT JOHN CHARLES BROWNE, OBE, JP
DR THE HONOURABLE CHUNG SZE-YUEN, OBE, JP
THE HONOURABLE LEE QUO-WEI, OBE, JP
THE HONOURABLE OSWALD VICTOR CHEUNG, OBE, QC, JP
THE HONOURABLE GERALD MORDAUNT BROOME SALMON, JP
THE HONOURABLE ANN TSE-KAI, OBE, JP
THE HONOURABLE LO KWEE-SEONG, OBE, JP

ABSENT

THE HONOURABLE ELLEN LI SHU-PUI, OBE, JP

IN ATTENDANCETHE CLERK TO THE LEGISLATIVE COUNCIL
MR RODERICK JOHN FRAMPTON

Papers

The following papers were laid pursuant to Standing Order No 14(2): —

<i>Subject</i>	<i>LN No</i>
Subsidiary Legislation: —	
Merchant Shipping Ordinance.	
Merchant Shipping (Control of Ports) (Amendment) (No 3) Regulations 1972	92
Revised Edition of the Laws Ordinance 1965.	
Annual Revision 1972	93
Training Centres Ordinance.	
Declaration of Tai Tam Gap Training Centre	94
Cross-Harbour Tunnel Ordinance.	
Cross-Harbour Tunnel Tolls	95
Sessional Papers 1971-72: —	
No 54—Annual Report by the District Commissioner, New Territories for the year 1970-71 (published on 24.5.72).	
No 55—Annual Report by the Director of Agriculture and Fisheries for the year 1970-71 (published on 24.5.72).	
Report: —	
Report of the Commission of Inquiry 1972 into the Fire on the "Jumbo" Floating Restaurant (published on 24.5.72).	

Oral answers to questions

Traffic Branch of Royal Hong Kong Police

1. MR P. C. Woo asked: —

Are there any duties performed by uniformed personnel of the Police Traffic Branch which could be performed by civilians? If so, will Government recruit additional civilian staff and release uniformed personnel for proper Police duties?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, the Commissioner of Police has a working party examining the question of utilizing civilian personnel not only in the Traffic Branch but in

other branches of the Police Force. He has not yet received its findings, and, when he does, he will report to me.

SIR YUET-KEUNG KAN: —Sir, how long has this working party been at work?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —On the specific question raised, I couldn't say; it is more or less a continuous working party reviewing police procedures.

Lion Rock Tunnel accidents

2. MR SZETO WAI asked: —

Would Government state whether there have been delays in clearing vehicles involved in a collision inside the Lion Rock Tunnel and evacuating the persons injured and, if so, what steps are being taken to ensure that these delays do not recur?

THE FINANCIAL SECRETARY (MR C. P. HADDON-CAVE): —Sir, my honourable Friend may rest assured that the Commissioner for Transport is very conscious that every effort must be made by his tunnel staff to avoid delays in clearing vehicles involved in a collision inside the Lion Rock Tunnel and evacuating injured persons.

The operational instruction dealing with vehicle accidents in the tunnel provides for the application of immediate first aid treatment to injured persons and, if necessary, for conveying them to hospital for further medical treatment as expeditiously as possible; the instruction also provides for the speedy clearance of damaged vehicles from the tunnel so that traffic flow is not impeded.

Unfortunately where accidents involving heavy vehicles occur in the tunnel there are sometimes unavoidable delays in moving such vehicles from the tunnel, bearing in mind their size and the practical difficulties involved in shifting them in a confined space. The need for more powerful recovery equipment to speed up the removal of such vehicles after accidents—provided such equipment is of the right dimensions—is now being examined.

As regards possible delays in evacuating injured persons, as opposed to vehicles, my honourable Friend is probably referring to an accident which occurred at 4.10 p.m. on 1st May in which a private bus collided with a private car. As a result of the collision, the bus blocked both lanes and the private car was extensively damaged with

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its three occupants injured. Preliminary investigations show that Kowloon Ambulance Control received a call at 4.19 p.m. and that the injured were collected and booked into hospital by 5.00 p.m. The tunnel re-opened to traffic at 4.58 p.m. There was an unexplained delay of 9 minutes between the time the accident was logged in the Tunnel Control Centre and the time a call for an ambulance was logged at Ambulance Control. This delay is now the subject of a departmental enquiry.

MR SZETO: —Sir, can my honourable Friend confirm that the first aid kit provided by the Tunnel Control was found to be improperly equipped?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —I am afraid, Sir, I don't know the answer to that specific question but I shall find out and inform my honourable Friend.

Pay for women in auxiliary and essential services

3. MR WOO asked: —

Will Government introduce equal pay for women in the auxiliary and essential services?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, the question of the levels of pay and allowances of the Auxiliary Police and other defence forces generally has been the subject of examination in recent weeks and it is hoped in the very near future to put recommendations first to you, Sir, in Council and then to the Finance Committee of this Council. The position of women members of these forces in the pay structure is one of the matters which has been under consideration in this context and the general proposals will include recommendations on this aspect.

Kennedy Town Jockey Club Clinic

4. MR WILFRED S. B. WONG asked: —

Will Government state how many doctors are in attendance at the Kennedy Town Jockey Club Clinic and whether it is necessary to post additional doctors there?

DR G. H. CHOA: —Sir, I presume my honourable Friend refers to the general out-patients clinic of the Kennedy Town Jockey Club Clinic which also provides a full-time maternal and child health service. At present one doctor is posted to the general out-patients clinic. There are times when two doctors are in attendance. If in the summer months the attendance figure rises, another doctor will be posted there.

Retiring age for Police

5. MR WONG asked: —

Is Government prepared to direct immediately that uniformed Police personnel should be retained for three years beyond the normal retiring age, subject to medical fitness, so as to alleviate the serious shortage of experienced men, both rank and file and officers?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, I do not think it would be in the public interest to require existing police personnel to remain in the Force against their will. But some apply to extend their service beyond the normal retiring age. When considering their applications, the present need to alleviate the serious shortage of both rank and file and officers will certainly be borne very much in mind.

Kowloon Sub-Treasury

6. MR H. J. C. BROWNE asked: —

Will Government take corrective measures to reduce waiting times for members of the public who visit the Kowloon Sub-Treasury to pay their bills?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, waiting times at the Kowloon Sub-Treasury have in fact been reduced in the last few years as a result of a campaign carried out by the Accountant General with the help of the Information Services Department to persuade people who have banking accounts to pay their bills by post. In 1971-72, for instance, about 453,000 demand notes, representing about 15% of total payments, were settled in this manner.

It is true that there is still, Sir, congestion at the Kowloon Sub-Treasury, as well as at the two cash offices on Hong Kong Island. But usually this occurs during the last few days of each quarterly rating period, that is at the end of April, July, October and January. The first three months in 1972 were unusually busy periods owing to the large backlog of water bills issued for payment in these months. This

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backlog was accumulated during the second half of 1971 following the introduction of the revised water charges and of the free units which slowed down substantially the rate at which water bills could be issued.

My honourable Friend will be glad to know that the Accountant General is to conduct a survey over the next few months with the help of the Secretariat for Home Affairs and the Commissioner for Census and Statistics to try to find out if there is sufficient demand to justify the cost of setting up one or more additional Sub-Treasuries in Kowloon and, if so, where. However, even if additional offices were opened, it would not be possible to reduce the waiting time at due date periods to what might be regarded by some as reasonable because many people leave payments to the last few days before they are due while others who pay by cheque still prefer to attend in person rather than send those cheques through the post.

MR BROWNE: —Sir, in view of my honourable Friend's remarks in his last few sentences, would it not be possible to put on some extra staff at these congested periods or else to arrange for people to work overtime in the evening in order to try and reduce the waiting time? Secondly, could not another system of collecting these charges be considered; perhaps by using other organizations that are accustomed to handling money, like banks, or something like that?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Sir, overtime is, of course, worked and quite substantially so at times. The question of extra staff might, I think, involve difficulty but I shall certainly bring the suggestion to the Accountant General's attention. We do in fact use other facilities for the payment of certain bills; for instance all tenants in resettlement estates may pay their water bills at estate offices. The possibility of using other facilities depends of course on whether or not these facilities have spare capacity. As for the banks, this raises rather broader issues and I should prefer to consult the honourable Member in writing at a later date.

SIR YUET-KEUNG KAN: —Sir, will my honourable Friend also ask the Treasury to make this information, requesting payment or settlement, by cheque rather than by cash, more prominent in the demand notes? As they are at the moment the information almost escapes any notice whatsoever.

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —I am well aware, Sir, that there is a prejudice against not paying in cash in person and I shall certainly suggest to the Accountant General that the possibility of paying by cheque through the post be brought home to those who receive demand notes.

Cooked food stalls in industrial areas

7. DR S. Y. CHUNG asked: —

Referring to a question on 18th November 1970, is Government in a position to report its findings about maximum use of a site at San Po Kong for providing space for cooked food stalls?

MR J. J. ROBSON: —Sir, in reply to a question from my honourable Friend Dr. S. Y. CHUNG on the 18th November 1970, Mr CLARKE undertook to investigate the use to which the site, which lies between Yin Hing Street and Shung Ling Street at San Po Kong, could be put with a view to meeting the requirement for cooked food stalls in that area.

The intention was to sell the site for development as a multi-storey car park with a sale condition that space should be made available on the ground floor for use, at least in part, as a hawker bazaar including cooked food stalls. However recent discussions with the Director of Fire Services have indicated that any multi-storey building exceeding a height of three storeys would result in an unacceptable fire risk since the site in question is surrounded by multi-storey residential buildings and has only limited vehicular access.

Accordingly it is now intended to abandon the idea for the time being of selling the site for a multi-storey car park, and as soon as the site can be cleared it will simply be used to provide ground level parking for some 44 cars and a hawker bazaar including cooked food stalls—subject of course to the inclusion of an appropriate item in the Public Works Programme. It is possible that at a later stage the site could be developed to a maximum of 3 storeys so as to provide additional facilities of the same type.

DR CHUNG: —Sir, is my honourable Friend aware that practically all the roads near or adjoining Tai Yau Street, which are the only main thoroughfares in the industrial township of San Po Kong, are packed with cooked food stalls between 11 a.m. and 3 p.m. and are almost inaccessible to vehicular traffic? Will Government promptly do something to rectify these appalling conditions?

MR ROBSON: —Sir, it is known to Government that this situation exists. The site in question—to which I was referring—recently had a fire on it and is now partly cleared by the fire. I am hoping that the remaining portion could be cleared within a few months, but this depends of course upon clearance. At that time we can then get ahead with putting in a cooked food stall market there.

Oral Answers**“Keep Hong Kong Clean” campaign**

8. DR CHUNG asked: —

In order to help the "Keep Hong Kong Clean" campaign will Government consider providing services to dispose of industrial waste and refuse from factories situated in urban areas?

MR D. R. W. ALEXANDER: —Sir, there is no doubt in my mind that if I were to take up my honourable Friend's suggestion, I would merely be giving the Cleansing Division of my Department an additional burden which it could not shoulder and which, far from helping the "Keep Hong Kong Clean" campaign, would make it even more difficult. I am afraid that responsibility for disposing of trade waste must remain with the individual industrialist. Indeed, one of the aims of the forthcoming campaign is to ensure that industrialists provide themselves with proper ways and means of disposing of their waste.

DR CHUNG: —Sir, is my honourable Friend aware that many factories dump their industrial waste and refuse on the corners and sidewalks of streets which eventually have to be disposed of by Government through the good offices of the Urban Services Department? Will Government consider bearing in mind the desirability, both financially and environmentally, that Government should dispose of such industrial waste and refuse and to charge—and I repeat, Sir, to charge—the factories accordingly?

MR ALEXANDER: —We are well aware of the situation, Sir, and we hope to catch these people who are dumping litter, waste, refuse and trade waste in due course. Generally speaking, when Government undertakes a service of this nature I would say that it would probably cost the industrialists more than if they were arranging it themselves. This is what we arrange at the moment; because we haven't got the vehicles and the staff, industrialists take care of their own waste—which comes from products which are producing profit for the industrialists.

DR CHUNG: —Sir, with due respect, I was asking a question whether the Government will undertake. I am not asking whether industrialists will be willing to pay.

MR ALEXANDER: —I am willing to put this back to the relevant select committee of the Urban Council, Sir.

Police departmental quarters

9. MR Q. W. LEE asked: —

Will Government take appropriate measures to prevent policemen and other rank and file disciplined staff housed in departmental quarters, especially those whose duties require them to be so accommodated, from becoming homeless when the time comes for them to leave those quarters upon retirement?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, as a result of a recent petition to Your Excellency from certain ex-police officers still in occupation of departmental quarters, the position of such persons after their retirement has been examined and proposals will be formulated which will shortly be laid before you, Sir, in Council.

Crime in resettlement estates

10. MR OSWALD CHEUNG asked: —

Have any departmental standing instructions been promulgated by the Commissioner for Resettlement on the action to be taken by his staff concerning

(a) reports on crime made by residents of resettlement estates to his staff; and

(b) criminal activities of which his staff have actual knowledge?

MR I. M. LIGHTBODY: —Sir, where crime in an estate is reported to estates staff, they are under instructions to encourage the person to make a report to the Police and, if necessary, to accompany him to the police station. However, more often than not the individual declines to report to the Police; in such event the estate staff will try to get the complainant's name and address, and the complaint, and inform the station. This will be an innovation and it is hoped that it will be effective.

Where estates staff personally witness a crime in an estate, they are under instructions to make a report to the Police. It is however very exceptional for this situation to arise.

Oral Answers

Reports of crime in resettlement estates

11. MR CHEUNG asked: —

How many reports of crime were made by residents of resettlement estates to staff of the Resettlement Department in 1971 and how many of these were forwarded to the police?

MR LIGHTBODY: —Sir, no record is kept in the Resettlement Department of the number of crimes reported by tenants to estates staff. The maintenance of statistics on crime in estates, as elsewhere, is a matter for the Police, and they do in fact keep very detailed statistics on this subject.

I have already indicated in my reply to the last question what happens when residents report crime to the estates staff.

Law and order in resettlement estates

12. MR CHEUNG asked: —

Will Government indicate the extent of consultation between the Commissioner for Resettlement and the Commissioner of Police on the maintenance of law and order in the resettlement estates?

MR LIGHTBODY: —Sir, I can reassure my honourable Friend that there is constant liaison at Divisional level between my estates staff and Police, and in addition we are supplied with regular Police reports on triad and gang activities in the estates. There is frequent consultation on practical ways and means of discouraging criminal activities, such as by cutting off access to roofs and meter rooms which are popular venues for gangs. The very layout of our estates does however tend to make life easy for the criminal; there are a vast number of entrances and exits to the blocks; there are too many secluded rear courtyards or public open spaces between the back of the blocks and the adjoining hillside. The various floors of the multi-storeyed blocks are essentially layered streets, where there are very few pedestrians by day and not much of a Police presence because of manpower problems.

To me it is a constant surprise that there is not more crime in the estates, considering the very sparse Police presence in them. A 50,000-person estate can have as little as three beats in it, and visitors to the estates frequently comment on the absence of Police. I have recently made a comprehensive report to the Commissioner of Police on various ways in which the Force could help to improve the situation in these crowded estates.

Lai Chi Kok beach

13. MR SZETO asked: —

In view of the badly polluted sea-water at Lai Chi Kok Bay, would Government consider closing the beach there to public bathing?

MR ALEXANDER: —Sir, swimming at Lai Chi Kok Bay has for long been a matter of grave concern to the Urban Council, whose policy has reluctantly been to tolerate its gazetted beach there (while actively discouraging swimming) until the opening of Lei Cheng Uk Swimming Pool. With the recent opening of this pool, Lai Chi Kok was de-gazetted as a public bathing beach with effect from 4th February of this year. All lifesaving services were withdrawn; notices advising members of the public not to swim there were put up on the beach; and my department also again warned the public through both the press and radio of the danger of swimming in the Bay.

Consideration was given to closing the beach by erecting barbed wire fences, but this proposal was rejected since it would deprive the public of the use of the beach for other recreational purposes, such as boating and picnicking.

The final solution to the problem lies, of course, in the eventual reclamation of the Bay, which has been zoned for reclamation and open space development in the Outline Development Plan for Lai Chi Kok. However, I am advised that this scheme is not likely to eventuate for some years yet.

MR SZETO: —Sir, has Government ever carried out any analysis of the water in this Bay to find out the degree of pollution or the content of bacteria, and has this area been included in the terms of reference for the consultants who have undertaken the study of pollution of the harbour?

MR ALEXANDER: —Tests are carried out regularly at all Urban Council beaches including Lai Chi Kok, and for many years it has been known that pollution there was much more extensive than elsewhere; but all that can be said is the danger of picking up infection is greater at Lai Chi Kok than elsewhere except in some of the crowded small craft anchorages. I regret I am unable to answer the last part of the question.

Oral Answers**Assisted secondary education**

14. MR T. K. ANN asked: —

Will Government give

- (a) the target date by which every child in the 12-14 age group will be assured of three years of assisted education; and
- (b) its anticipated percentage increase by the end of the next five years in the number of children in the 12-16 age group (currently 18%) who will be provided with five years of assisted secondary education leading to a Certificate of Education?

MR J. CANNING: —Sir, to answer the first part of my honourable Friend's question, Government's aim is to provide three years of aided post-primary education for all children in the 12 to 14 years age-group. As a first step towards achieving this aim, it is intended to provide places for 50% of the age group by 1976. On the basis of the 1971 Census, the number of places required by 1976 is about 157,000. About 79,100 places have already been provided in 1971-72 and it is hoped to provide a further 31,000 places in 1972-73, through the provision of additional places in existing Government and fully-aided schools, the purchase of places in private non-profit-making schools and selected private profit-making schools, and through the building of new schools whose sponsors will receive capital subsidy and recurrent assistance from Government. This will leave a likely commitment of about 46,900 places by the end of 1972-73.

Although satisfactory progress has been made towards achieving this interim aim, it is not possible to give, at this stage, a date by which the ultimate aim of providing three years post-primary education for *all* children in the appropriate age group can be achieved. I intend to review the position in 1973. This review will enable Government to set a date for achieving the ultimate aim.

Turning now to the second part of the question, the approved policy for the expansion of secondary education in the public sector provides for 18% to 20% of the children in the 12 to 16 age group to have five years of assisted secondary education leading to a Certificate of Education. On the basis of the 1971 Census, the number of Form I to Form V places required to reach the approved target by 1976 will be approximately 95,300. In September 1971, there were approximately 70,500 places for Form I to Form V in Government and aided schools, representing 14.7% of the 12 to 16 age group at that time. Thus, the anticipated percentage increase in the number of Form I to Form V places from September 1971 to 1976 is about 35%.

Insurance companies legislation

15. SIR YUET-KEUNG KAN asked: —

Does Government intend to amend present legislation dealing with insurance companies and, in particular, to revise the financial requirements to be met?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —Yes, Sir. Recent investigations have shown that the financial requirements in some of the Ordinances relating to insurance need to be strengthened at an early date in order to provide a greater degree of protection for the public.

A draft bill is therefore being prepared for submission to Executive Council which will propose substantial increases in the present requirements as to deposits, paid-up capital and solvency margins. It is intended that these provisions will take effect from today, 24th May 1972.

The Government also intends to undertake later this year a review of the whole field of insurance legislation and a Law Officer, who is at present on leave in the United Kingdom, will be spending some time in the Insurance and Companies Division of the Department of Trade and Industry in preparation for this review. The review will include an assessment of the financial requirements which should be met by all insurance companies; the interim provisions I have just mentioned will not affect companies now carrying on insurance business in Hong Kong and who already as at today comply with the existing provisions.

But I think I should add, Sir, that the existing insurance companies would be well advised to consider strengthening their financial position now so that they can comply more easily with the financial requirements eventually decided upon, for these requirements will apply to all companies no matter when they commenced business.

SIR YUET-KEUNG KAN: —Sir, to make the position absolutely clear, will my honourable Friend confirm that companies which are not carrying on insurance business today and which intend to do so after today will have to comply with these new requirements?

THE FINANCIAL SECRETARY (MR HADDON-CAVE): —The short answer is yes, Sir. But perhaps if I could just paraphrase what my honourable Friend said: our intention is that any company that is not as at today carrying on insurance business and complying with existing requirements will be required to comply with the new requirements to be provided for in the interim amending bill.

Statements

Report of the Commission of Inquiry 1972 into the Fire on the "Jumbo" Floating Restaurant

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —Sir, amongst the papers laid on the table of this Council today is the Report of the Commission of Inquiry which was set up to investigate the fire on the "Jumbo" Floating Restaurant on 30th October last year. This Report has already been considered by the Executive Council with whose advice you, Sir, have ordered that the recommendations of the Commission, other than that in paragraph 110(xviii), be accepted in principle subject to approval of their financial implications by the Finance Committee of this Council once these have been worked out. (The exception to which I have just referred was put forward by the Commission only as an alternative to one of the other recommendations which has been accepted and the fact that it has not been accepted is of no significance).

In the earlier part of the Report the Commission discussed the causes of the fire and paragraphs 65 to 76 contain the Commission's findings on the responsibility for the fire. Honourable Members will note that the Report does not apportion responsibility between the parties mentioned nor does it attempt to determine their civil liabilities since the Commission thought that these were matters which should be left to the regular Courts of Law.

I note from the Report that the Commission has commended the courage and resource of several persons who went to the rescue of survivors of the fire, and I should like to associate myself with the Commission's remarks.

In order to resolve doubts over the respective powers and duties of the Government departments concerned, the Commission have recommended that the Director of Marine be given overall responsibility for the supervision of working conditions on ships and floating structures being built, repaired or renovated in Colony waters and that he be given suitable powers of enforcement. The Commission have also recommended that the Merchant Shipping Ordinance should be amended to make it clear that it applies to floating restaurants and similar undertakings. On the advice of the Executive Council, you, Sir, have accepted these recommendations. I should perhaps say that the inspection of industrial undertakings of this kind outside registered dockyards is likely to be expensive and it will take some little time to provide the necessary staff. I should also like to draw attention to paragraph 100 of the Report in which the Commission emphasize that in making their recommendations they do not wish to detract in any way from

the primary responsibility that the law imposes on those in actual charge of the work, that is, the shipbuilder, ship-repairer or contractor.

Other recommendations made by the Commission include a review of the adequacy of the single fire boat now stationed at Aberdeen, the provision of improved laboratory facilities for the testing of new materials used in construction work and wider facilities for the provisions of the Dangerous Goods Ordinance and the possible danger of some new and untried materials. Plans already drawn up will cover the first two of these recommendations and the third will be followed up.

As regards the safety of floating restaurants generally, the Commission have noted that some of these restaurants have been in operation for many years, that they appear to have clear fire records and that it may well be that none of them currently pose any undue fire risk. The Commission have, however, recommended that the Marine Department should continue to be the authority for the inspection and licensing of these restaurants but that, when issuing or renewing certificates for them, the department should take into account the requirements that the Fire Services Department would consider necessary for restaurants on land. This recommendation has also been accepted.

There is perhaps one further point I should mention. Immediately following the fire, steps were taken by the Legal Aid Department to draw the attention of relatives of those killed in the disaster, and of those who had been injured or suffered damage to property, of the availability of Legal Aid to assist them in bringing any claims they might have.

75-year renewable Crown leases

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER):—Sir, at the debate in this Chamber on the 10th May I undertook that there would be a review by Government of its policy on renewal of Crown rent.

This review has been completed and the advice of the Governor in Council sought.

Two weeks ago I said that it was only reasonable to insist that leaseholders should pay a part of the increased value of their property for the benefit of renewal for a further term. I added that there might be disagreement about the proportion they have to pay but none on the principle that they should pay.

The review was undertaken in the light of the arguments and opinions given in this Council a fortnight ago, and in the light of representations from various public and private bodies. As a result of

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this review I have to announce this afternoon a number of modifications to the policy which will be of benefit to the holders of renewable Crown leases.

In proposing these modifications we have had in mind three objectives. First of all to reduce the overall burden of renewal. Secondly, to cushion the impact of the increases which, even after reduction, will be necessary. Thirdly, to minimize or eliminate cases of hardship.

The first of these modifications is that the general level of all renewal rents assessed in accordance with the provisions of Crown leases will in effect be reduced by 20% from the first half-yearly payment after today. This reduction will also be applied in the case of leases yet to be renewed and will result in the reduction of the rate of interest used in the calculation from 5% to 4%.

In addition to this reduction in the level of renewal rents, it has been decided, so as to reduce even further the impact of this modified rent, to introduce the renewal rents by gradual stages over a period of five years from 1973. This will be effected by charging only 50% of the reduced rent due in 1973 and thereafter increasing by annual stages of 10% until in 1978 the full modified rent will become payable. This concession will only affect those people who have renewed their leases in the 5 years prior to the 30th June 1973. The reassessed rent payable after 30th June 1973 will be reduced by the appropriate percentage on a similar basis according to the year of renewal. In other words, we are taking a look backwards without any retrospective payment.

This matter is not an easy concept to explain briefly. It is perhaps best done by example. If a lessee renewed his lease in say 1970 he will after 30th June 1973 get the benefit of the last two stages of the concession, that is to say the reduced rent payable will be further reduced by 20% for his first year's payment after the 30th June 1973, and by 10% after the 30th June 1974, but not thereafter further reduced.

Particular consideration to meet our third objective has been given to pre-war rent controlled properties. In these cases the existing Crown rent will be payable just so long as the property remains subject to tenancies the rents of which are controlled under the Landlord and Tenant Ordinance. When this ceases to be the case lessees will begin to pay the modified Crown rent as assessed at the date of renewal.

A similar concession will be available to lessees with underdeveloped property who renew their leases on the basis of existing use

and development. In these cases the lessee will have the option of having his full renewal rent assessed at the date of renewal and of paying rent at the time of redevelopment instead of paying a modification premium.

Certain other changes in policy which are of lesser importance than those I have just mentioned have also been formulated. Full details of these and an explanatory statement of our new policy will be issued as soon as possible.

These modifications to the policy in respect of renewable leases will involve a very substantial reduction in revenue in the ensuing years and I can only repeat what I said in the previous debate that any reduction in revenue from this source may have to be made good from another.

MR CHEUNG: —Sir, may I be permitted to ask the honourable Colonial Secretary to elucidate one point. Supposing a lease does not fall for renewal until 1978, when it is first renewed will the lessee still in his first year pay 50% of the rent and then 40% and then 30%?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —No, Sir, I am afraid he won't. If it is renewed in 1978 he will have had 5 years' notice of what he may expect, and he will not benefit from the concession I have mentioned.

MR CHEUNG: —If it is renewed in 1975 he would get 3 years' concession?

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): —That is so . . .

MR CHEUNG: —I am much obliged.

THE COLONIAL SECRETARY (SIR HUGH NORMAN-WALKER): — . . . depending exactly on the date on which rent becomes payable; it's a half-yearly payment of rent.

DR CHUNG: —Sir, may I follow up my honourable colleague's point and ask the honourable Colonial Secretary on a point of clarification: if the leaseholder has a lease which will fall due in 1978, but if he wishes to bring it forward for renewal in 1973, would he still get the same benefit as mentioned by my honourable Friend?

MR ROBSON: —I think, Sir, this is a question we haven't yet looked into. I am afraid we shall have to ask for notice of that question.

DR CHUNG: —Thank you, Sir.

Government business**Motion****INLAND REVENUE ORDINANCE**

THE FINANCIAL SECRETARY (MR HADDON-CAVE) moved the following motion: —

It is hereby resolved, pursuant to sections 51A and 51B of the Inland Revenue Ordinance, that the operation of the said sections be extended until the 1st October 1972.

He said: —Sir, following upon a recommendation by the Inland Revenue Committee of 1966, the Inland Revenue Ordinance was amended in June 1969 by the addition of sections 51A and 52B. These sections, as I am sure honourable Members are well aware, are designed to assist in the investigation of tax evasion.

Section 51A empowers the Commissioner to require a statement of assets and liabilities from a person, if he is of the opinion that the person has made without reasonable excuse an incorrect return or supplied false information with a view to understanding his assessable income or profits.

Section 51B empowers a magistrate to issue a search warrant, on application by the Commissioner or an authorized officer, if he is satisfied that a person has not submitted a return when required by the Commissioner, or that a person has made an incorrect return or supplied false information with the intention of evading tax.

When these two sections were first proposed, it was generally felt that an excessive and arbitrary use of these powers might be detrimental to the business community. They were given, therefore, a statutory life of three years in the first instance only, with a proviso that they could be extended by resolution of the Legislative Council at the end of that period.

I am advised by the Commissioner of Inland Revenue that these two sections have proved to be most useful and effective. Over the first 2½ years of their operation, notices under section 51A have been served on 13 occasions and complied with without objection on 12 occasions. Apart from these cases, taxpayers in 88 other cases have co-operated in returning statements of assets and liability without the Commissioner having to resort to formal notices.

The powers contained in section 51B have so far been used on two occasions. The searches were carried out with the minimum of disruption of business.

I consider that these two sections have been well tested and the Government proposes that they should become permanent provisions of the Inland Revenue Ordinance. To this end a bill will shortly be introduced into this Council. However, as the law stands at present, these sections are due to expire on 19th June 1972. Accordingly, this resolution seeks to extend the operation of these two sections until 1st October 1972, by which time I hope the amending bill I have just mentioned will have been enacted.

Question put and agreed to.

First reading

MATRIMONIAL PROCEEDINGS AND PROPERTY BILL 1972

Bill read the first time and ordered to be set down for second reading pursuant to Standing Order No 41(3).

Second reading

MATRIMONIAL PROCEEDINGS AND PROPERTY BILL 1972

THE ATTORNEY GENERAL (MR D. T. E. ROBERTS) moved the second reading of: —"A bill to consolidate and amend the law relating to ancillary and other relief in matrimonial causes and other matrimonial proceedings; to abolish the right to claim restitution of conjugal rights; and for purposes connected with or relating to the matters aforesaid."

He said: —Sir, as honourable Members are aware, the Matrimonial Causes (Amendment) (No 2) Bill 1972, which is due for its committee stage and third reading today, follows closely the English Divorce Law Reform Act 1969.

Before the latter Act was brought into effect in England, there was enacted the Matrimonial Proceedings and Property Act 1970, which conferred on the courts wider powers to make financial provision for the parties to a marriage and their children, and the bill before honourable Members reproduces that Act, with such modifications as are necessary to meet the circumstances of Hong Kong.

Although the bill is a lengthy one, it largely consolidates and tidies up provisions which are already to be found in Parts VI and VII of the Matrimonial Causes Ordinance, though there are some changes of substance which I will briefly summarize.

[THE ATTORNEY GENERAL] **Matrimonial Proceedings and Property Bill—
second reading**

Clauses 3 to 5 provide that in future either party to a marriage may be ordered to make periodical payments, or to settle lump sums, for the benefit of the other spouse or the children of the family. Previously, orders of this nature could be made only against a husband, save in a few exceptional circumstances.

Clause 6 introduces a new power to order settlements of property for the benefit of the other spouse, or the children of the marriage, and also enables the courts to vary marriage settlements on the dissolution of a marriage.

Clause 7 prescribes the various matters which must be taken into account by the court when assessing what financial provision should be made as between spouses. The general aim of these rules is to restore the parties, as far as possible, to the financial position in which they would have been if the marriage had not broken down. The rules re-state in statutory form principles which have been gradually developed over quite a long period through case law. However, their presence in an enactment should lead to a greater uniformity in their application.

Clause 8 extends the power to award financial relief for wilful neglect to maintain in that a husband as well as a wife will be able to apply for maintenance in certain circumstances, an order may be made for the benefit of any child of the family, that is to say, not only a child of both spouses but any other child who is treated by them as a child of the family, and security may be ordered for a spouse's life or until re-marriage, not merely for the spouses' joint lives as formerly.

Clause 9 sets out the maximum periods for which provision can be made under clauses 4 and 8. The principal change is that an order will come to an end on the re-marriage of the spouse in whose favour it was made.

The effect of clause 10 is that an order for the maintenance of a child will in the first instance be made only until the child reaches the age of 16, though it may thereafter be extended to the age of 21 and even after that age if a child is receiving full time education, or if there are special circumstances which justify the making of such an order, for instance, the physical inability of the child to earn a living.

Clause 13 confers on the court a new power, to order the repayment in certain circumstances of sums paid under an order made under the bill. No doubt this power will be sparingly used and probably not exercised if payments are received in good faith.

Clause 21 abolishes the right to petition the court for an order for the restitution of conjugal rights. This is an anachronistic procedure, under which the petitioner can obtain from a court an order that the other party to the marriage should return and render conjugal rights to the petitioner. This remedy has been very seldom used since it has been found that conjugal rights rendered under duress are unlikely to be particularly satisfactory. Failure to return in defiance of such a decree has entitled a spouse to a decree of judicial separation and also, if the petitioner is a wife, to an order for maintenance.

The Fourth Schedule contains consequential amendments to other Ordinances. The Intestate Estates Ordinance is altered to make it clear that judicially separated spouses are not entitled to claim on the intestacy of each other. This provision will put a judicially separated spouse in the same position, so far as succession to property on intestacy is concerned, as a divorced spouse.

The amendment to the Married Persons Status Ordinance will enable the summary procedure provided by that Ordinance for the settlement of disputes between husband and wife as to property to be used at any time up to 3 years after the dissolution of the marriage, instead of only during the life of the marriage as at present. The new section 7B inserted into that Ordinance is an attempt to deal with the difficult problem of the division of matrimonial property on the dissolution of a marriage. The court is given a discretion to make an order dividing up the property, or its value, in proportion to the contributions made in money or money's worth by either party to the marriage.

The proposed new section 8A will abolish the wife's agency of necessity. This was a common law doctrine whereby a woman who had been deserted by her husband could pledge his credit for goods and services which were essential to her livelihood. In view of the wife powers of the court to provide for her by way of maintenance orders, this common law rule, which frequently led to legal difficulties and to acrimonious disputes between separated spouses is no longer required.

Motion made. That the debate on the second reading of the bill be adjourned—THE ATTORNEY GENERAL (MR ROBERTS).

Question put and agreed to.

Explanatory Memorandum

This Bill follows closely the provisions of the (United Kingdom) Matrimonial Proceedings and Property Act (1970 c. 45).

Matrimonial Proceedings and Property Bill—second reading*[Explanatory Memorandum]*

Part I deals with preliminary matters. Part II amends and extends Parts VI and VII of the Matrimonial Causes Ordinance (Cap. 179), which provide for financial and other relief in matrimonial proceedings.

Clause 3 empowers the court to order either party to proceedings for divorce, nullity of marriage or judicial separation to make periodical payments to the other pending determination of the suit.

Clauses 4 to 6 prescribe the powers of the court to order financial provision for a spouse or child on the granting of a decree, including the transfer or settlement of property and the variation of existing settlements. Clause 7 specifies the matters to which the court is to have regard in exercising these powers. These matters include contributions made by looking after the home or caring for the family.

Clause 8 enables either spouse to apply to the court for maintenance on the ground that the other has wilfully neglected to maintain the applicant or a child of the family. Clause 9 provides for the duration of orders made in favour of spouses. The main change from the existing law is that an order for periodical payments must terminate on the remarriage of the payee. Subject to this, payments may be secured to last for the payee's life and not only for the joint lives of the spouses. No application for financial provision for a spouse may be made after his or her remarriage.

Clause 10 sets out the circumstances in which orders can be made in favour of children and the maximum duration of such orders. Unless the child is undergoing full time education or there are special circumstances, no order can be made if he is over 21 and any order made before that must terminate on his attaining his majority.

Clause 11 provides for the variation, discharge and enforcement of orders. Orders for lump sum payments or for the transfer of property are not subject to variation or discharge and there are restrictions on the variation of other property adjustments.

Clause 12 imposes conditions on the recovery of maintenance payments more than 12 months in arrear, and clause 13 enables the court to order repayment of sums paid under certain orders and which should have been reduced by reason of a change in the circumstances of the parties.

Clauses 14 to 16 reproduce, with minor changes, the provisions of the Matrimonial Causes Ordinance governing the validity or variation of maintenance agreements.

Clause 17 reproduces, in a modified form, the present provision in that Ordinance enabling the court to set aside dispositions intended to defeat claims for financial provision and to restrain a party from making such dispositions.

Clauses 18 to 20 provide for the protection and custody of children. Clause 18 replaces the present provision in the Matrimonial Causes Ordinance requiring the court to satisfy itself about the arrangements made for the children of the family before making absolute a decree *nisi*. Clauses 19 and 20 reproduce in a revised form the existing provisions of that Ordinance relating to the custody of children. The only change of substance is that the revised provisions will apply to the wider class of children comprised in the definition of "child of the family" in clause 2(1); this includes a child treated by the parties to a marriage as a child of their family.

Clause 21 abolishes the remedy of restitution of conjugal rights.

By clause 22, which is a transitional provision, orders for maintenance made under section 28 of the Matrimonial Causes Ordinance will cease to have effect on the remarriage of the payee.

By clause 23, where an order made under the Bill or the Matrimonial Causes Ordinance had ceased to have effect by reason of the remarriage of the payee, but the payer continued to make payments believing the order to be still in existence, the court may make an order for repayment of the money overpaid, or part of it.

Clauses 24 to 27 deal with miscellaneous and supplementary matters.

Clause 28 and the First Schedule contain transitional provisions and savings.

Clause 29 validates void or voidable decrees.

Part III of the Bill contains miscellaneous provisions which are not directly concerned with matrimonial causes.

Clause 30 relates to proceedings in the District Court.

Clause 31 provides that, in the case of a judicially separated spouse who dies intestate, section 32(3) of the Matrimonial Causes Ordinance shall cease to have effect except where the death occurred before the 1st July 1972.

Matrimonial Proceedings and Property Bill—second reading

[Explanatory Memorandum]

Clause 32 provides for rules of court.

Clause 33(1) and (2) and the Second and Third Schedules amend and repeal certain provisions of the Matrimonial Causes Ordinance.

Clause 33(3) and the Fourth Schedule add a new section to the Intestates' Estates Ordinance (Cap. 73) and three new sections to the Married Persons Status Ordinance (Cap. 182). The new section 4A of the Intestates' Estates Ordinance deprives a judicially separated spouse of any right to succeed on the intestacy of the other spouse. The new section 7A of the Married Persons Status Ordinance enables an application under section 6 of that Ordinance to be made after the termination of the marriage. The new section 7B thereof declares that one spouse's substantial contribution to the improvement of property, in which either or both spouses are interested, entitles him to a share, or an enlarged share, in that property, and the new section 8A abolishes a wife's common law "agency of necessity".

The Bill is to come into operation on the 1st July 1972, the same date of commencement as that of the Matrimonial Causes (Amendment) (No. 2) Bill 1972.

CRIMINAL PROCEDURE (AMENDMENT) (NO 2)**BILL 1972****Resumption of debate on second reading (10th May 1972)**

Question again proposed.

Question put and agreed to.

Bill read the second time.

Bill committed to a committee of the whole Council pursuant to Standing Order No 43(1).

Committee stage

Council went into Committee.

**UNIVERSITY OF HONG KONG (AMENDMENT)
BILL 1972**

Clauses 1 and 2 were agreed to.

PHARMACY AND POISONS (AMENDMENT) BILL 1972

Clauses 1 to 7 were agreed to.

LEGAL PRACTITIONERS (AMENDMENT) BILL 1972

Clauses 1 to 5 were agreed to.

**MATRIMONIAL CAUSES (AMENDMENT) (NO 2)
BILL 1972**

HIS EXCELLENCY THE PRESIDENT: —We will take the clauses in blocks of not more than ten.

Clauses 1 to 23 were agreed to.

Clause 24.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that clause 24 be amended and replaced as set forth in the paper before honourable Members.

The effect of the present clause 24 is to amend the Separation and Maintenance Orders Ordinance and I think it is preferable to change that Ordinance by direct amendment to it rather than by means of a section in the Matrimonial Causes Ordinance. The two amendments in the paper before honourable Members will achieve this by repealing the proposed new section 51 of the Matrimonial Causes Ordinance and inserting a new section into the Separation and Maintenance Orders Ordinance.

Proposed Amendment

Clause

24 That clause 24 be deleted and the following substituted therefor—

"Repeal of
section 51.

24. Section 51 of the principal Ordinance is repealed. ”.

Matrimonial Causes (Amendment) (No. 2) Bill—committee stage

The amendment was agreed to.

Clause 24, as amended, was agreed to.

Clause 25 was agreed to.

New clause 24A "Amendment of Cap. 16. "

Clause read the first time and ordered to be set down for second reading pursuant to Standing Order No 46(6).

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, in accordance with Standing Order 46(6) I move that the new clause 24A as set forth in the paper before honourable Members be read a second time.

Question put and agreed to.

Clause read the second time.

THE ATTORNEY GENERAL (MR ROBERTS): —Sir, I move that new clause 24A be added to the bill.

*Proposed Addition**Clause*

That the following new clause be added after clause 24—

"Amend-
ment of
Cap. 16. **24A.** The Separation and Maintenance Orders Ordinance is amended by adding after section 6 the following new section—

"Condonation.
1965 c. 72.
s. 42(2). **6A.** For the purposes of this Ordinance, adultery and cruelty shall not be deemed to have been condoned by reason only of a continuation or resumption of cohabitation between the parties for one period not exceeding three months, or of any thing done during such cohabitation, if it is proved that cohabitation has continued or resumed, as the case may be, with a view to effecting a reconciliation. "

The addition of the new clause was agreed to.

Council then resumed.

Third reading

THE ATTORNEY GENERAL (MR ROBERTS) reported that the

University of Hong Kong (Amendment) Bill 1972

Pharmacy and Poisons (Amendment) Bill 1972

Legal Practitioners (Amendment) Bill 1972

had passed through Committee without amendment and that

Matrimonial Causes (Amendment) (No 2) Bill 1972

had passed through Committee with amendment and moved the third reading of each of the bills.

Question put on each bill and agreed to.

Bills read the third time and passed.

Adjournment and next sitting

HIS EXCELLENCY THE PRESIDENT: —In accordance with Standing Orders I now adjourn the Council until 2.30 p.m. on Wednesday 7th June.

Adjourned accordingly at twenty-nine minutes past three o'clock.